

Old Attorney Docket No. MJA-27202/03  
New Docket No. HTEC-014/01US

PATENT

### DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name;

I believe I am an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

#### RESPIRATORY ANALYZER FOR EXERCISE USE

the specification of which:

(check one)

☐ is attached hereto;

☒ was filed as United States Application Serial No. 10/631,304 on July 31, 2003, and was amended on \_\_\_\_ (if applicable);

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information which is known to me to be material to the patentability of said invention in accordance with 37 C.F.R. §1.56;

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

60/400,265  
(Application Number)

August 1, 2002  
(Filing Date) (day, month, year)

60/412,155  
(Application Number)

September 19, 2002  
(Filing Date) (day, month, year)

60/429,252  
(Application Number)

November 26, 2002  
(Filing Date) (day, month, year)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

<sup>jr 4.20.04</sup>  
**Full name of first inventor: Lynnette Ross**

Inventor's signature: [Signature] Date 4.20.04  
Residence: 1075 Space Park Way, #49, Mountain View, CA, 94043  
Citizen of: United States  
Post Office Address:

**Full name of second inventor: Dirk Fengels**

Inventor's signature: [Signature] Date 04/20/2004  
Residence: 205a Blackpoint Lane, Santa Cruz, CA, 95062  
Citizen of: United States  
Post Office Address:

**Full name of third inventor: Edwin M. Pearce, Jr.**

Inventor's signature: [Signature] Date 4/20/2004  
Residence: 23557 Genesee Village Rd. Golden, CO 80401  
Citizen of: United States  
Post Office Address: Box 16592, Golden, CO 80402

**Full name of fourth inventor: James R. Mault**

Inventor's signature: \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 30589 Monarch Ct., Evergreen, CO, 80439  
Citizen of: United States  
Post Office Address:

**Full name of fifth inventor: Christopher L. Sandys**

Inventor's signature: \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 6252 King Drive, Evergreen, CO, 80439  
Citizen of: United States  
Post Office Address:

**Full name of sixth inventor: Tom Kilbourn**

Inventor's signature: [Signature] Date 4-6-04  
Residence: 18868 Aspesi Drive, Saratoga, CA 95070  
Citizen of: United States  
Post Office Address:

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Full name of first inventor: Lynnette Ross**

Inventor's signature: \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 1075 Space Park Way, #49, Mountain View, CA, 94043  
Citizen of: United States  
Post Office Address:

**Full name of second inventor: Dirk Fengels**

Inventor's signature: \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 205a Blackpoint Lane, Santa Cruz, CA, 95062  
Citizen of: United States  
Post Office Address:


**Full name of third inventor: Edwin M. Pearce, Jr.**

Inventor's signature: \_\_\_\_\_ Date \_\_\_\_\_  
Residence:  
Citizen of: United States  
Post Office Address:

**Full name of fourth inventor: James R. Mault**

Inventor's signature: \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 30589 Monarch Ct., Evergreen, CO, 80439  
Citizen of: United States  
Post Office Address:

**Full name of fifth inventor: Christopher L. Sandys**

Inventor's signature:  \_\_\_\_\_ Date 4/16/04  
Residence: ~~6252 King Drive, Evergreen, CO, 80439~~  
Citizen of: United States 8429 S LAKE KETCHUM RD, STANWOOD, WA 98292  
Post Office Address:

**Full name of sixth inventor: Tom Kilbourn**

Inventor's signature: \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 18868 Aspesi Drive, Saratoga, CA 95070  
Citizen of: United States  
Post Office Address:



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PATENT

Applicant or Patentee: Ross, et al.

Serial No.: 10/631,304

Patent No.:

Filed: July 31, 2003

Issued:

For: RESPIRATORY ANALYZER FOR EXERCISE USE

**ASSERTION OF ENTITLEMENT TO SMALL ENTITY STATUS UNDER  
37 C.F.R. §1.27 - SMALL BUSINESS CONCERN**

I hereby declare that I am:

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

Name of Small Business Concern: HealtheTech, Inc.  
Address of Small Business Concern: 523 Park Point Drive  
Golden, CO 80401

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §121 for purposes of paying reduced fees under 35 U.S.C. §§41(a) and (b), in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both;

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled and described in:

- ☐ the specification filed herewith;  
☒ the application identified above; or  
☐ the patent identified above;

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. §1.27(a)(1) or by any concern which would not qualify as a small business concern under 37 C.F.R. §1.27(a)(2) and 13 C.F.R. §121 or a nonprofit organization under 37 C.F.R. §1.27(a)(3):

\*NOTE: Please obtain separate Assertions of Entitlement to Small Entity Status from each named person, concern or organization having rights to the invention averring to their status as small entities.

Name:  
Address:

☐ Individual    ☐ Small Business Concern    ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. §1.27(g))

Signature

Edwin M. Pearce

Date

3/26/04

Name of Person Signing

Edwin Pearce

Title of person other than owner

Vice President - Operations

Address of person signing

523 Park Point Drive  
Golden, CO 80401